



Federal Communications Commission  
Washington, D.C. 20554

March 15, 2007

**DA 07-1311**

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In Reply Refer to:

1800B3-TSN

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In re: **Estate of Linda Ware, d/b/a  
Lindsay Broadcasting**  
KZPO(FM), Lindsay, California  
Facility ID No. 37725  
File No. BALH-20040217AEJ

**Application for Consent to Assign  
Station License**

**Estate of H.L. Charles, d/b/a  
Ford City Broadcasting**  
KZPE(FM), Ford City, California  
Facility ID No. 22030  
File No. BAPH-20040217AEI

**Application for Consent to Assign  
Station Construction Permit**

**Joint Petition for Partial  
Reconsideration**

Dear Petitioners:

We have before us the above-referenced Joint Petition for Partial Reconsideration and Expedited Reinstatement of Applications *Nunc Pro Tunc* (“Joint Petition”), filed on May 24, 2004, by Cynthia Ramage (“Ramage”), Executor of the Estate of Linda Ware d/b/a Lindsay Broadcasting (“Ware”), Robert Willing (“Willing”), Executor of the Estate of H.L. Charles d/b/a Ford City Broadcasting (“Charles”), and Lazer Broadcasting Corp. (“Lazer”) (collectively, the “Joint Parties”).<sup>1</sup> In the Joint Petition, the Joint Parties seek reinstatement of the February 17, 2004, Form 314 Application for Consent to Assignment of the license for Station KZPO(FM), Lindsay, California, from Ware to Lazer,<sup>2</sup> and the February 17, 2004, Form 314 Application for Consent to Assignment of the construction permit for Station KZPE(FM), Ford City, California, from Charles to Lazer<sup>3</sup> (collectively, the “Lazer Assignment Applications”). The Lazer Assignment Applications were dismissed by the Media Bureau, Audio Division (the “Division”), on April 16, 2004.<sup>4</sup> As discussed below, because both applications were subsequently dismissed on other grounds, we dismiss the Joint Petition as moot.

**Background.** As noted above, the Lazer Assignment Applications were both filed on February 17, 2004. Attachments to the Lazer Assignment Applications noted that both proposed assignors were deceased: Ware passed away on February 24, 2000, and Charles on December 26, 2003. On February 27, 2004, both applicants filed Form 316 applications to assign the station authorizations to the respective estates of the deceased licensee and permittee.<sup>5</sup> By letter dated March 30, 2004, the Division advised counsel for Ware and Charles that the Form 316 applications were incomplete and, consistent with established Division processing procedures, would be dismissed unless letters testamentary or letters of administration, appointing representatives of the applicants’ estates, were filed within ten days of the date of the letter.<sup>6</sup> Because the applicants failed to comply with this directive, the Division returned both Form 316 applications and the Lazer Assignment Applications as unacceptable for filing.<sup>7</sup>

On May 20, 2004, the estates of Ware and Charles filed new Form 316 applications, having obtained Letters Testamentary appointing Ramage and Willing the executors of, respectively, the Ware estate and the Charles estate.<sup>8</sup> These two Form 316 applications were granted on June 4, 2004. On June 17, 2004, both estates filed minor amendments to the previously dismissed Lazer Assignment Applications, substituting Ramage and Willing as the respective assignors. In the Joint Petition, the Joint

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<sup>1</sup> On June 18, 2004, the Joint Parties filed a Motion for Leave to Supplement the Joint Petition. For the reasons discussed in the text, the Motion for Leave to Supplement is dismissed.

<sup>2</sup> File No. BALH-20040217AEJ.

<sup>3</sup> File No. BAPH-20040217AEI.

<sup>4</sup> *Letter to Howard J. Braun, Esq. and Shelley Sadowsky, Esq.*, Ref. No. 1800B3-TSN (MB Apr. 16, 2004) (“April 2004 Dismissal Letter”).

<sup>5</sup> File No. BALH-20040227ABX (Ware – KZPO(FM)), File No. BAPH-20040227ABY (Charles – KZPE(FM)).

<sup>6</sup> *Letter to Howard J. Braun, Esq. and Shelley Sadowsky, Esq.*, Ref. No. 1800B3-TSN (MB Mar. 30, 2004) (“March 2004 Letter”).

<sup>7</sup> April 2004 Dismissal Letter at 5.

<sup>8</sup> File No. BALH-20040520AJH (Ware Estate – KZPO(FM)), File No. BAPH-20040520AJI (Charles Estate – KZPE(FM)).

Parties request that the original Lazer Assignment Applications be reinstated *nunc pro tunc*, in order to facilitate the assignment of, not only the KZPO(FM) and KZPE(FM) authorizations, but also those of three other stations that are parties to the same hearing proceeding, and which are being sold as a “package’ deal.”<sup>9</sup>

**Discussion.** The Lazer Assignment Applications were, in fact, briefly reinstated by the Division shortly after the estates of Ware and Charles filed their new Form 316 applications in May 2004. However, on January 7, 2005, they were again dismissed, because both applicants were delinquent in payment of the annual regulatory fees for the facilities in question.<sup>10</sup> On October 1, 2004, the Commission’s rules implementing the Debt Collection Improvement Act of 1996<sup>11</sup> became effective.<sup>12</sup> Those rules require the Commission to withhold action on any application filed by an applicant that is delinquent in payment of, *inter alia*, annual regulatory fees.<sup>13</sup> To date, neither the Ware nor the Charles estate has paid the delinquent regulatory fees. Thus, the Lazer Assignment Applications cannot be reinstated.

**Conclusion.** For the foregoing reasons, the Joint Petition filed by the Estate of Linda Ware d/b/a Lindsay Broadcasting, the Estate of H.L. Charles d/b/a Ford City Broadcasting, and Lazer Broadcasting Corp., IS DISMISSED.

Sincerely,

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

cc: Harry C. Martin, Esq.  
William L. Zawila, Esq.

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<sup>9</sup> Joint Petition at 4. The other three station authorizations to be sold are those of KNKS(FM), Coalinga, California, permitted to William L. Zawila; KAAX(FM), Avenal, California, permitted to Avenal Educational Services, Inc.; and KAJF(FM) (now KYAF(FM)), Firebaugh, California, permitted to Central Valley Educational Services, Inc. All of these stations, along with KZPE(FM), KZPO(FM), and KKFO(AM), Coalinga, California (the license of which is not proposed to be assigned) are the subject of *William L. Zawila, et al.*, Order to Show Cause, Notice of Opportunity for Hearing, and Hearing Designation Order, 18 FCC Rcd 14938 (2003) (“*Zawila*”). In *Zawila*, the Commission designated several issues, including those involving possible misrepresentations of fact and technical rule violations, which could result in the revocation of these station authorizations. The *Zawila* proceeding (EB Docket No. 03-152) remains pending.

<sup>10</sup> See *Letter to Estate of Linda Ware, Cynthia Ramage, Executor* (MB Jan. 7, 2005), *Letter to Estate of H.L. Charles, Robert Willing, Executor* (MB Jan. 7, 2005).

<sup>11</sup> Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

<sup>12</sup> See 47 C.F.R. Part 1, Subpart O. See also *Amendment of Parts 0 and 1 of the Commission’s Rules – Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, Report and Order, 19 FCC Rcd 6540 (2004).

<sup>13</sup> *Id.* § 1.1910(b).